

**BEFORE THE HEARING EXAMINER
FOR THE CITY OF ISSAQUAH**

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|---|---|--------------------------------|
| In the Matter of the Application of |) | No. FP15-00003 |
| |) | |
| Darren Peugh, on behalf of |) | Talus Parcels 7 & 8 Final Plat |
| Talus 7 & 8 Investment, LLC, and |) | |
| Talus 9 Investment, LLC |) | |
| |) | |
| |) | FINDINGS, CONCLUSIONS, |
| <u>For Approval of a Final Plat</u> |) | AND DECISION |

SUMMARY OF DECISION

The Hearing Examiner **APPROVES** the Talus Parcels 7 & 8 Final Plat. Conditions are necessary to address specific impacts of the proposed use.

SUMMARY OF PUBLIC MEETING

Meeting Date:

The Hearing Examiner held a public meeting on the request on December 16, 2016.

Comments:

The following individuals provided comments at the public meeting:

Mike Martin, City Associate Planner
Darren Peugh, Applicant Representative
Doug Schlepp, City Engineer
Lucy Sloman, City Land Development Manager
Ted Schepper, P.E.
David Kappler
Dave Boyce
Ken Esemann
Michelle Kappler
John Bingham, P.E.
Susan Wilson

Attorney Patrick Mullaney represented the Applicant.

Exhibits:

The following exhibits were submitted at the public meeting:

1. Vicinity Map, undated
2. Land Use Permit Application, dated September 17, 2015

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3. Final Plat Drawings (11 Sheets), dated December 9, 2016
4. List of Property Owners within 300 feet, undated
5. Affidavit of Notice of Public Meeting, dated December 1, 2016, with attached Copy of Public Notice
6. Urban Village Development Commission Findings, Conclusions, and Conditions, revised May 13, 2014
7. Issaquah City Council Notice of Action, dated June 6, 2014, with attached Meeting Minutes from June 2, 2014
8. Issaquah Municipal Code, Chapter 18.13
9. Bonded Improvements Letter, dated December 8, 2016
10. Staff Report, dated December 9, 2016
11. Letter from Peter Eglick to the Hearing Examiner, dated December 15, 2016
12. Email from Ken Esemann to Mike Martin, dated December 15, 2016
13. Memorandum from Bob Wallis and Al Fure to Mike Martin, dated December 16, 2016, with attachment:
 - a. Redlined Final Plat Drawing, Easement Provisions (Sheet 2 of 11)
14. Revised Final Plat Drawings (11 Sheets), dated December 16, 2016:
 - a. Dedication and Recording Certificate (Sheet 1 of 11)
 - b. Easement Provisions (Sheet 2 of 11)
 - c. Covenant and Title Restrictions (Sheet 3 of 11)
 - d. Plat Overview (Sheet 4 of 11)
 - e. Plat Entrance, including Tract H (Sheet 5 of 11)
 - f. Southeast Corner of Plat, including Tracts E, F, and M (Sheet 6 of 11)
 - g. Central Eastern Section of Plat, including Tracts A, C, and R (Sheet 7 of 11)
 - h. Central Western Section of Plat, including Lots 44 to 56 (Sheet 8 of 11)
 - i. North Central Section of Plat, including Lots 22 to 35 (Sheet 9 of 11)
 - j. Northern Section of Plat, including Lots 9 to 21 and Tract Q (Sheet 10 of 11)
 - k. Eastern Section of Plat, including lots 38 to 43 (Sheet 11 of 11)
15. Letter from John Bingham, Hart Crowser, Inc., to Keith Niven, dated December 15, 2016

The Hearing Examiner enters the following findings and conclusions based upon the comments offered and exhibits admitted at the public meeting.

FINDINGS

Application and Notice

1. Darren Peugh, on behalf of Talus 7 & 8 Investment, LLC (Applicant), requests approval of a final plat to subdivide approximately 28.8 acres into 63 single-family residential lots and 27 tracts for critical areas, open space/tree retention, stormwater detention, access and utilities, public pedestrian access, recreational trails, walls, and landscaping. The property is located in the western portion of the Talus development, west and north of

Shangri-La Way NW, in Issaquah.¹ The property would be accessed off of a new road, Foothills Drive NW. *Exhibit 2; Exhibit 5; Exhibit 10, Staff Report, page 2.*

2. The City of Issaquah (City) received the final plat application on September 18, 2015, and later deemed it complete. On December 1, 2016, the City mailed notice of the application and associated public meeting to all parties of record to the preliminary plat, as required by Issaquah Municipal Code (IMC) 18.13.200.A. The same day, the City also mailed notice of the application and public meeting to property owners within 300 feet of the proposal. *Exhibit 4; Exhibit 5; Exhibit 10, Staff Report, page 2.*

Environmental Review

3. The City acted as lead agency and analyzed the environmental impacts of the proposal, as required by the State Environmental Policy Act (SEPA), Chapter 43.21C RCW, during the preliminary plat approval process. Accordingly, no further SEPA review is necessary for final plat approval.² *Exhibit 10, Staff Report, page 2.*

Project Background

4. The East Village Development Agreement (Development Agreement), approved on December 6, 1999, governs development of the Talus urban village. The Development Agreement contains the substantive regulations and procedures applicable to land use approvals within the urban village. The Development Agreement addresses items such as storm drainage, road improvements, traffic, landscaping, recreation, water and sewer service, and environmental mitigation. The East Village preliminary master plat, approved by the City Council on June 19, 2000, established 28 parcels for residential and commercial development within Talus, as well as open space and access tracts, including Parcels 7 and 8. The City of Issaquah Hearing Examiner approved the Talus final master plat on December 20, 2000, establishing 17 parcels, three utility tracts, roads, and easements. This proposal's compliance with the Development Agreement, the City Comprehensive Plan, and state subdivision requirements (RCW 58.17) was reviewed during the preliminary plat process.³ The City Council approved the preliminary plat for Parcels 7 and 8 on June 2, 2014, with 32 conditions of approval. *Exhibit 6; Exhibit 7; Exhibit 10, Staff Report, pages 2 and 3.*

¹ The subject property is identified by Tax Assessor Parcel No. 292406-9071. A legal description of the property is found within the revised final plat drawings submitted with the final plat application. *Exhibit 2; Exhibit 10, Staff Report, page 1; Exhibit 14a.*

² As noted by the Washington Supreme Court, "SEPA does not mandate bureaucratic redundancy but only that the heretofore ignored environmental considerations become part of normal decision making on major actions." *Lovelace v. Yantis*, 82 Wn.2d 754, 765 (1973).

³ The subject property was created through the City's short platting process (SP02-001EV) and three lot line adjustments (LLA00-001EV, LLA04-002EV, and LLA14-00006). Accordingly, the Hearing Examiner was not involved with the preliminary plat for Talus Parcels 7 & 8. *Exhibit 10, Staff Report, page 2.*

5. Approximately 80 percent of the Talus community is complete or under construction. All roadways adjacent to Parcels 7 and 8, for instance, have already been constructed. In addition, several utility permits have implemented improvements in various portions of the Talus development that would provide supporting infrastructure for Parcels 7 and 8, including the regional water main and sewer, which are complete and operational. Specific to the project site—for which infrastructure including walls, roads, utilities, and street lights is substantially complete—the following permits have already been approved or are currently under review:
- SEP14-00001, Parcels 7, 8, and 9 Steep Slope Critical Areas Study
 - SW14-00019, Parcels 7, 8, and 9 Grubbing; Parcels 7 and 8 Grading and Walls
 - SW14-00049, Parcels 7 and 8 Roads and Utilities
 - SW14-00051, Stormwater Filter Vault
 - SW14-00069, Reservoir and Booster Pump Station
 - LAN15-00022, Parcels 7 and 8 Landscaping

Exhibit 10, Staff Report, pages 1 and 2.

Comprehensive Plan and Zoning

6. The property is designated Urban Village by the City Comprehensive Plan. The purpose and intent of the Urban Village designation is to encourage innovative uses, sites, and comprehensive planning of large land parcels to provide opportunities for reasonably priced housing; encourage enhanced public services and concurrency; encourage infrastructure solutions and improvements; and encourage creative land development through clustering, integration of recreational facilities, phasing of infrastructure, and permanent preservation of wetlands and other natural areas. The designation is implemented by the adoption of an Urban Village development agreement and Urban Village zoning by the City Council. As discussed above, an Urban Village development agreement has been adopted for the Talus development. *City Comprehensive Plan, Land Use Element, page L-7; Exhibit 10, Staff Report, pages 1 and 3.*
7. The property is located within the City’s Urban Village (UV) zoning district. The purpose of the district is to encourage innovative uses, sites, and comprehensive planning of large (15 acres or more) land parcels. The City Council may adopt a UV zoning district classification for property concurrent with approval of a development agreement. Upon City Council approval of a development agreement, the property’s development is governed by the substantive provisions of the approved agreement and implemented through subdivisions, short plats, binding site plans, or other applicable permits in accordance with either the procedures specified in the agreement or standard City procedures if none is specified in the agreement. Here, the City adopted the UV zoning classification concurrent with adoption of the Talus (East Village) Development Agreement. *Issaquah Municipal Code (IMC) 18.06.120; Exhibit 10, Staff Report, page 1.*

8. The Talus development is generally built on the slope of Cougar Mountain and, accordingly, several steep slopes encumber areas of Parcels 7 and 8.⁴ Property to the north of the proposal is undeveloped land within unincorporated King County. Other portions of the Talus development border the property to the south and east. The Talus development's western project boundary, its buffer, and the Cougar Mountain Regional Wildlife Park border the site to the west. *Exhibit 10, Staff Report, page 1; Exhibit 14d.*

Preliminary Plat Conditions

9. The City reviewed the final plat for consistency with the preliminary plat conditions approved by the City Council. The applicable preliminary plat conditions are numbered below, followed by the City staff's analysis in italics stating how the proposed final plat complies with each of the conditions:

1. Various easements are required to provide access for the City of Issaquah or property owners. These easements shall be provided with the final plat. These include:
- When the right-of-way is located at the back of sidewalk or similar paved area, and it is determined to be necessary by the Designated Official, a two-foot maintenance and repair easement shall be granted to the City. For instance, if a building or wall is located at the back of a publicly owned paved area, the easement is not necessary.
 - Access to retaining walls to for maintenance and replacement by the private owners.

Complies. See Sheet 2 – Easement Provisions No. 's 3 and 5 [Exhibit 14b].

2. At Final Plat, a mechanism for ensuring the preservation of the westerly buffer in Tract D as well as an easement for protection of the steep slope therein, shall be provided.

Complies. See Sheet 2 – Easement Provision No. 15 [Exhibit 14b].

3. At final plat, irregular or pie shaped lots and lots that are narrow in the front shall be adjusted to ensure that the homes have a strong relationship with the street. For example, this condition will require an adjustment to the shape or building placement and/or design on Lot 6 of Parcel 7, and Lot 4 of Parcel 8.

Compliance with this condition will be verified with future Building Permits.

⁴ Several tracts throughout Parcels 7 and 8 include steep slopes, including Tracts A, B, C, D, E, F, M, and Q. Further, all "double letter" tracts (i.e. "AA") are designated for stabilizing walls. *Exhibit 14.*

4. In order to minimize the aesthetic impacts of the development, the following shall be incorporated into the Building Permit applications for homes visible from off-site:
 - a. Blank walls shall be avoided, especially where visible from off-site; if necessary, articulation or other features will be provided. Articulation would incorporate tiering, building offsets, and/or other means to soften the building's form. Appropriate features would include doors, windows, building articulation, and/or other architectural features to create a visually interesting environment.
 - b. In addition to landscape in the adjacent steep slope tracts, the visible side of the homes may have open-style fences or varied hedges up to 4 feet in height. A covenant or other mechanism, acceptable to the Designated Official, shall be recorded to ensure that if a hedge is used it is maintained at 4 feet. If a fence is used, the appropriate amount of fence openness will be evaluated in combination with the landscaping and building architecture as viewed from outside these parcels. Solid fences or unvaried shrubbery plantings (such as a wall of only arborvitae) will not be permitted.
 - c. The prominent finish of building facades visible from off-site shall be muted, non-reflective material incorporating neutral to dark earth tones.

Compliance with this condition will be verified with future Building Permits.

5. The Applicant shall use varied building setbacks, modulations in building facades, architectural details and colors to provide added interest and character to achieve a more appropriate mountain village character.

Compliance with this condition will be verified with future Building Permits.

6. The landscaping for Tract G, between Parcel 8 and Shangri-La Way, shall be designed so that views from Lots 1 to 5 are framed but there remains a continuation of the open space character established in Tract D adjacent to Shangri-La Way.

Compliance with this condition will be verified with future Building Permits.

7. Design terraced walls shown in the plat to allow and encourage landscaping being located from below, between, and above the terraced walls. This will be reviewed with the Site Work Permit for the walls and with the Landscape Permit.

Complies. This condition was implemented through SW14-00019, SW14-00049, and LAN15-00022.

8. Where it is not practical to terrace walls, long and/or tall walls will be articulated, add visual interest to the community, and use landscape to soften the wall and transition the scale of the wall where pedestrians are nearby. For instance, at the base of the eastern wall in Parcel 7, landscaping, which includes the use of coniferous trees where feasible, shall be placed between the base of the wall and the trail in order to reduce the wall's scale and presence to pedestrians. Additionally, coniferous trees shall be provided on the downslope side of the wall in order to better screen the walls by that portion of open space. In addition, walls must be 1) owned and maintained by the TALUS HOA (an election by the Homeowners Association), or 2) owned and maintained by a sub-HOA that meets City standards for financial viability, or 3) by another group or organization with the ability to access and assess individual lots for the protection, preservation, and eventual replacement of the walls. Consideration must be given to, and demonstrated on the wall design plans, that a method for the eventual replacement of the walls is accommodated in the wall design and the available property above and below the wall. This will be enforced during the Wall permits and Landscape Permit.

Complies. This condition was implemented through SW14-00019, SW14-00049, and LAN15-00022. Wall ownership, maintenance and access complies: see Sheet 2 – Easement Provisions Nos. 16, 17, and 18 together with Notes and Restrictions No. 17 [Exhibit 14b].

9. Prior to approval of any permit other than this Preliminary Plat, the Applicant must receive Master Development approval and City conformation for the election to shift down one land use density category, i.e., from Medium Density Residential to Low Density Residential.

Complies. The Development Services Department approved an Administrative Minor Modification (File No. AMM14-00006) on March 31, 2014, pursuant to Preliminary Plat Condition 9.

10. The stormwater system shall comply with the master Drainage Plan submitted with the pre-plat application. This will be reviewed with the Site Work Permit.

Complies. This condition was implemented through SW14-00049 and SW14-00051.

11. Prior to issuance of any Utility Permit that allows the construction of impervious surfaces, the design work necessary to generate stormwater treatment capacity in the P5 Detention Pond and P5 Sand Filter must be approved by the City. The associated work must be completed, prior to issuance of the first Building Permit. The Designated Official may consider accepting surety to alter the completion

date based upon a plan to have necessary facilities in place consistent with the Development Agreement, MDP, and stormwater generation.

Complies. This condition was implemented through SW14-00051.

12. Future Utility Permits implementing the plat and plat construction shall be consistent with the findings and conditions of approval in Critical Areas Study Notice of Decision – File No. SEP14-00001.

Complies. This condition was implemented through SW14-00049 and SW14-00051.

13. Structural fills that have a resultant slope of greater than 40 percent do not need setbacks or buffers under the following circumstances: 1) they have been designed by a licensed geo-technical or structural engineer, and 2) construction was performed under the guidance of a licensed structural or geo-technical engineer, and 3) the as-built plans are certified by a licensed structural or geo-technical engineer. Otherwise, these areas will be treated as steep slopes under Appendix E. This will be reviewed with the Site Work Permits.

Complies. This condition was implemented through SW14-00049 and SW14-00051.

14. The constructed walls that are proposed on the western project boundary must be designed to accommodate revegetation plantings without landscaping or irrigation restrictions. The intent is to revegetate immediately adjacent to the walls with deciduous Douglas Fir and Cedar Trees that can be allowed to grow to a full mature height. This will be reviewed with the Site Work Permit for walls and with the Landscape Permit.

Complies. This condition was implemented through SW14-00019, SW14-00049, and LAN15-00022.

15. At final plat, the BSBL for critical areas shall be shown on all lots with adjacent critical areas.

Complies. All building setback lines (BSBLs) are shown on the plat drawings pursuant to Preliminary Plat Condition No. 15.

16. At final plat, any private streets shall have an easement allowing emergency vehicles and Public Works to access the street network. In addition, a public

access easement shall be granted from the owner to the City.

Complies. See Sheet 2 – Easement Provision No. 2 [Exhibit 14b].

17. Per AMM14-00002, the Parcel 8 road and Tract F (Drive B) must be widened as necessary in order to provide sidewalk and planter facilities. This condition will be verified with the Final Plat.

Complies. This condition was implemented through SW14-00049 and is shown consistently on the plat drawing.

18. To ensure that center-line of roads within the plat do not exceed 15 percent slope or 600 feet in length, road grades and lengths will be confirmed with Site Work Permits and certified by a surveyor or other professional acceptable to the Designated Official, following construction. This certification must be provided prior to issuing the first Building Permit in the plat. If grades exceed 15 percent, then all homes past the 15-plus percent slopes must be sprinklered.

Compliance of this condition was verified with SW14-00049 as it pertains to the design of the roads. Final certification shall be required and verified prior to issuance of the first building permit.

19. Capital facility fees due at final plat shall be paid prior to final plat approval, and shall be collected based upon the number of lots contained in the final plat and in accordance with Appendix I. The Applicant shall be obligated to pay required Appendix I Parks Mitigation Fees, unless the Designated Official determines that credit for other recreational facilities are adequate to offset those fees.

Complies. Payment of half of the required Parks Mitigation Fee was received on December 9, 2016, pursuant to Appendix I of the TALUS [East Village] Development Agreement. All other required mitigation fees will be collected at the time of building permit issuance pursuant to Appendix I of the TALUS [East Village] Development Agreement.

20. A condition shall be placed on the face of the final plat which requires the payment of mitigation fees per the School Mitigation Agreement.

Complies. See Sheet 2 – Notes and Restrictions No. 12 [Exhibit 14b].

21. With the final plat, the Tract O recreation and open space tract shall be increased in size or another area within Parcel 7 shall be provided in order to accommodate for a more usable and diverse variety of recreation activities. In either case, the Parcel 7 tract identified for recreation will be graded flat, though it may be

terraced into 2 or 3 flat, usable pieces. Recreation tracts within Parcels 7, 8, and 9 shall be designed to be useful and serve a variety of users, including varied opportunities for children's play. This will be reviewed with Site Work Permits as well as the Administrative Site Development Permit for the open space tracts.

Complies. This condition was implemented through SW14-00049 and LAN15-00022.

22. Prior to issuance of the first Building Permit the Applicant must submit and receive approval for (both from Issaquah and DOH) a design report that identifies the details of the water supply system to serve parcels in the upper (presumably 906) pressure zone. The report must detail the redundant storage and supply facilities and how they comply with City codes and standards.

Complies. This condition was implemented through SW14-00049 and SW14-00069.

23. Building permits for combustible construction served by the 916 reservoir may be issued as soon as the 916 reservoir is on-line, full of water, and the water mains serving any specific parcel are connected to the 916 reservoir. Building occupancy may not occur until the water system is accepted by the City of Issaquah.

Compliance with this condition will be verified with future building permits.

24. All maintained Landscape Areas and Natural Open Space tracts must be completed by the final inspection for the last adjacent unit or upon 60 percent occupancy of the surrounding development, whichever occurs first.

Compliance with this condition will be verified through the inspections that occur as part of the Certificate of Occupancy process.

25. At final plat, Tracts A, C, D, J, K, M, N, O, and P, as well as any other tracts that have trails or recreation facilities, shall allow public access on the trails in perpetuity if the tracts containing the trails or recreation facilities are privately owned.

Complies. See Sheet 2 – Easement Provision No. 13 [Exhibit 14b].

26. With any clearing and grading work that would result in plant removal, the Applicant shall provide an opportunity for plant salvage consistent with the

Wildlife Habitat Network Preservation Plan.

Complies. The site was cleared previously under permit PUB08-00198 and it was determined that insufficient plant salvage was present.

27. Any previously cleared land shall be replanted with native, non-invasive trees and plants prior to the acceptance of open space and recreation tracts by the TALUS Homeowner's Association. Additionally, the Applicant must prepare a plan for the removal and prevention of established invasive plant species within open space areas. The City must approve the plan and it must be implemented prior to the acceptance of any open space and recreation tracts.

Complies. This condition was implemented with LAN15-00022.

28. Prior to acceptance of the second 916 tank and reservoir access road, the 752 reservoir and access road shall be removed from the 50-foot wide Westerly Buffer. Following removal of the reservoir and road, disturbed areas shall be restored with an appropriate native palette of groundcover, shrubs, and trees, including evergreens. The restoration plan shall be permitted and performance bond posted prior to Final Plat for either Parcels 7 or 8, whichever comes first. The landscape restoration work shall be completed (installed, inspected, and maintenance bond posted) prior to acceptance of the second new 916 tank (by Parcel 7).

Complies with modification. Condition is addressed with SW14-00049 and SW14-00069. 752 Reservoir must remain on line at the acceptance of the 916 Reservoir. A bond has been posted to ensure the completion of restoration of the 752 Reservoir site with native vegetation.

29. The 916 reservoir access road shall be outside the 50-foot buffer. Walls or grading may occur within the buffer, but shall be restored with an appropriate native palette of groundcover, shrubs, and trees, including evergreens as determined by the Designated Official. The tanks may remain within the Westerly Buffer as approximately shown in the Applicant's proposal of April 30, 2014. The reservoir site footprint shall be minimized while maintaining necessary functionality, as determined by the Designated Official.

Complies. Condition was implemented with SW14-00049 and SW14-00069.

30. Revise the eastern wall design and height in Parcel 7 to be no more than 39 feet. This will be reviewed with permits which include the wall design.

Complies. This condition was implemented through SW14-00019.

31. The northern end of Road A will terminate as a driveway to the northernmost house (currently Lot 17). The right-of-way may extend to the northern property line, but no extension of Road A will occur until such time as the City Council has made a decision that would support such extension. This will be reviewed with the Final Plat and with the Site Work permit which includes roads.

Complies. This condition was implemented through SW14-00049.

32. Redesign the northern terminus of Road A to eliminate or reduce the dead-end portion if an examination of grades and options indicates that a redesign is practical and feasible, consistent with City codes and the Development Agreement. Options could include moving Drive C to the north or adding a cul-de-sac which does not meet fire service standards. This will be reviewed with Site Work Permits for the roads in Parcel 7.

Complies. This condition was implemented through SW14-00049.

Exhibit 10, Staff Report, pages 4 to 9.

10. Under IMC 18.13.280, the Hearing Examiner may not approve a final plat until all required improvements are constructed in a satisfactory manner and approved by the responsible City departments, or sufficient bond has been satisfactorily posted in lieu of completion. The City Public Works Director must notify the City Planning Department in writing of the improvements deferred; the amount of bond or other security, and the time limit of each; and any other pertinent information. *IMC 18.13.280.G.* Robert York, the City's Utilities Engineering Manager, on behalf of Sheldon Lynne, City Public Works Engineering Director, stated in a December 8, 2016, letter to Keith Niven, Economic and Development Services Director, that the developer has deferred some plat improvements and that the necessary bond amounts have been determined. *Exhibit 9.*

Public Comments

11. On December 15, 2016, the Talus Residential Association (the TRA), the homeowners association representing the several thousand homeowners throughout the Talus development, wrote the City and Applicant expressing concerns about certain aspects of the proposed Talus Parcels 7 & 8 Final Plat. Specifically, the TRA expressed concerns with:
- The Wall. The TRA understands from the materials provided that the proposal depends on a wall and supporting system that is approximately 800 feet long and 39 feet high. The TRA has repeatedly objected to responsibility (including monitoring, repair, and rebuilding) and liability associated with it. Because this wall would only benefit the developer (by securing a developable area) and the future homeowners of Parcels 7 and 8, the TRA has declined to accept

responsibility for the wall and believes that responsibility should be assigned to a “sub-association” specifically created for Parcels 7 and 8.

- Open Space Tracts A and C. The TRA would accept responsibility for Open Space/Recreational Tracts A and C provided the tracts are in good order when assignment/acceptance occurs. Currently, the condition of trails and fences in the tracts are a matter of concern. The stormwater system in the forest is also in need of inspection and maintenance (including cleaning) to confirm that it is in good working order. In addition, these tracts need to be inspected for hazard trees.
- Tract Q. This tract is characterized by a 60-foot elevation gain, over 50 horizontal feet, with a steep rock cut wall, and with significant maintenance challenges and liability exposures as its defining feature. The TRA believes Tract Q is unusable for recreation and chiefly benefits the Applicant and the future owners of homes in Parcels 7 and 8. The TRA declines to accept responsibility for this tract.
- Tracts D and E. These tracts are private roads that are solely for the benefit of and solely serve the future residents of Parcels 7 and 8. The TRA believes these tracts should be assigned to a sub-association specifically created for Parcels 7 and 8.
- Easement Note No. 7. This note should be clarified to make clear that the TRA is not obligated to maintain storm drains on property not deeded to the TRA.
- Tract CC. Tract CC should be divided between the “non-wall” part of the tract (to be maintained by the TRA) and the “wall” part of the tract to be maintained by a sub-association specifically created for Parcels 7 and 8.

Exhibit 11.

12. After receiving the TRA’s letter, the Applicant worked with the TRA to resolve the issues it had raised. The Applicant submitted an email and memorandum explaining the resolution reached between the parties, as well as a revised set of final plat drawings reflecting the agreed upon changes. These documents note:

- Tracts D, E, and Q (which include “The Wall”) will be dedicated to a sub-association, the “Talus Parcels 7 & 8 Homeowner’s Association,” relieving the TRA of responsibility for these tracts.
- The TRA will accept Tracts A, B, C, F, G, M, N, O, S, and T, so long as the Applicant transfers the tracts in good order. As such, the Applicant will repair fences and trails where appropriate, address hazard trees, and clean and inspect the forest stormwater system along the Shangri-La trail.
- Tract CC should be assigned to the Talus Parcels 7 & 8 Homeowner’s Association.
- Verbiage in Easement Note No. 7 will be adjusted as appropriate to reflect changes in ownership responsibility.

Exhibit 12; Exhibit 13; Exhibit 14.

13. On December 15, 2016, the City received a letter from John Bingham, a Senior Associate Geotechnical Engineer with Hart Crowser, Inc., written on behalf of the owners of Talus

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Parcel 9, the undeveloped property abutting the project to the southeast. Mr. Bingham expressed concerns over several aspects of the proposed final plat, including:

- It would be premature to allow completion of development on Parcels 7 and 8 without confirming slope stability of these parcels given recent landslide activity on Parcel 9.
- Hart Crowser's own analysis reveals that the initial soil investigation and slope stability analysis do not adequately characterize existing site subsurface conditions in this mapped landslide area or adequately analyze all likely landslide causes.
- Sections in the Parcel 7 and 8 critical area reports indicate retaining walls ranging from 20 to 65 feet tall and mechanically stabilized earth walls ranging from 30 to 50 feet high that either do not have test pit explorations nearby, have only shallow test pit exploration, or have a boring that is not deep enough to characterize subsurface conditions in the area as adequate to resist loads from new structures or grading.
- Reports do not identify the site as being in a potential landslide area, and thus do not consider residual soil strengths as a potential slope instability triggering mechanism.
- Parcel 8 stability analysis did not consider the current conditions and marginal stability of Parcel 9. Grading, filling, and wall installation on Parcel 8 could reinitiate movement of the slide on Parcel 9.
- Parcel 8 stability analysis does not consider the new proposed soldier pile retaining wall intended to protect Shangri-La Way NW between Parcels 8 and 9. The design of the retaining wall assumes a 25-foot retained height in the event the landslide on Parcel 9 is remobilized. The wall and the design-retained height should be included in additional geotechnical analysis.
- Third-party review of the proposal by a qualified geotechnical engineer is appropriate.

Exhibit 15.

Staff Recommendation and Public Meeting

14. City staff reviewed the proposed final plat for compliance with the technical requirements in IMC 18.13.180 through IMC 18.13.340, which govern the final plat application, the general and specific requirements of the final plat, the dedications and certifications contained in the final plat or that accompany the final plat, and the proposal's compliance with the Development Agreement and the requirements of Chapter 58.17 RCW. City staff determined that all of these requirements are satisfied and recommend approval of the final plat. *Exhibit 10, Staff Report, pages 2 to 9.*
15. At the public meeting, Associate City Planner Mike Martin discussed the history of the Talus Parcels 7 & 8 plat (as described above). Mr. Martin also explained the agreement reached between the Applicant and the TRA. He reiterated that City staff recommends

approval of the final plat and that conditions are appropriate to reflect the agreement reached between the Applicant and the TRA. *Comments of Mr. Martin.*

16. Applicant Representative Darren Peugh reiterated that the Applicant and the TRA have reached agreement over the concerns raised by the TRA. He explained that the Applicant would perform a “walkthrough” of the parcels that would be transferred to the TRA to ensure that they are in good order and that the Applicant would welcome the City’s involvement in facilitating that process. City Land Development Manager Lucy Sloman stated that the City would be willing to facilitate the walkthrough to ensure that the tracts are in good order prior to transfer to the TRA. *Comments of Mr. Peugh; Comments of Ms. Sloman.*
17. Ken Esemann, an area resident also representing the TRA, noted that the TRA no longer objects to final plat approval of the proposal and appreciates the work the Applicant and City staff put in to address the TRA’s concerns. *Comments of Mr. Esemann.*
18. Area resident Michelle Kappler asked whether there would be adequate assurances that the sub-association for the proposal would have adequate financial resources to address any issues related to walls and maintenance. Mr. Peugh responded that there are several walls throughout the Talus development, many similar in size to those on Parcels 7 and 8, and that maintenance for those walls has been relatively inexpensive over the last 15 years. He explained that HOA fees should adequately cover maintenance responsibilities and that, should it occur, catastrophic failure of walls would be an issue covered under insurance. *Comments of Ms. Kappler; Comments of Mr. Peugh.*
19. David Kappler, an area resident representing the Issaquah Trails Club, noted that the Club is happy with how the proposal is working out. He did, however, express concern with some of the steep cliffs on-site and stressed the need for adequate boundaries or markings. Mr. Kappler also noted that it is important to ensure that the public trail system makes sense and that appropriate public access is maintained. City Engineer Doug Schlepp responded that the City would review concerns over “fall protection” for trails and walls prior to building permits being issued and that the City has an interest in ensuring that all safety hazards are addressed on public trails. *Comments of Mr. Kappler; Comments of Mr. Schlepp.*
20. Area resident Dave Boyce expressed concerns over traffic and congestion in the area. Mr. Schlepp responded that traffic impacts were addressed when the whole Talus community was conceived. Mr. Peugh also noted that the master plan for the community originally called for approximately 1,780 residential units, but they now are expecting approximately 1,300 units near the build-out phase of development. Accordingly, existing roads are adequate to handle any additional traffic from the proposal. *Comments of Mr. Boyce; Comments of Mr. Schlepp; Comments of Peugh.*

21. Mr. Schlepp also discussed the concerns raised by Mr. Bingham. He stated that the City has received adequate assurances that plat infrastructure for the proposal can be completed without endangering Parcel 9. He noted that, during the preliminary plat phase, the City reviewed geotechnical and critical areas reports for the proposal and that these reports were peer reviewed by qualified third-party geotechnical engineers. Mr. Schlepp explained that the landslide on Parcel 9 occurred approximately a year after grading, wall building, and erosion control work had initially begun on the proposal and that there has been no indication that the slide was caused by this work. He stated that, following the slide (which caused some damage to improvements near the entrance of the proposal, including loss of roadway curb and gutters), the Applicant submitted plans and received approval for a stabilization wall that would ensure that the area above the slide (on Parcels 7 and 8) remains stable. Mr. Schlepp also noted that, throughout the process of reviewing the landslide on Parcel 9, there has been monitoring, sometimes daily, that shows no indication that the slide would migrate off-site. Further, the Applicant has conducted slope monitoring of Parcels 7 and 8 for approximately one year since the slide, and there has been no indication of any slope instability on these parcels. *Comments of Mr. Schlepp.*
22. Mr. Bingham reiterated the concerns he raised in his letter and stated that, in his opinion, the geotechnical and slope stability reports have not given enough consideration to the recent landslide. Susan Wilson, an officer and representative of the owners of Parcel 9, emphasized that, if final plat approval is granted, the Parcel 9 owners will look to the City and others for appropriate compensation if the proposal damages Parcel 9. *Comments of Mr. Bingham; Comments of Ms. Wilson.*
23. Ted Schepper, P.E., further addressed the concerns raised by Mr. Bingham. He explained that he served as the geotechnical engineer of record for the proposal and, at one time, was also working as the geotechnical engineer for Parcel 9. He noted that, in preparing geotechnical reports for the proposal, he did consult, review, and consider the landslide hazard maps for the area. Mr. Schepper also explained that his team performed site testing prior to infrastructure development and that, once construction began, ground conditions were consistent with the soil and slope stability characterizations made in the geotechnical reports. He stressed that all of the critical areas and geotechnical reports utilized for the project were peer reviewed and that the Applicant has extensively considered slope stability for the project. *Comments of Mr. Schepper.*

CONCLUSIONS

Jurisdiction

The Hearing Examiner has jurisdiction to hear and decide final plat applications under Issaquah Municipal Code (IMC) 18.04.490.C.2 and 18.13.200. A final plat is reviewed at a public meeting and does not require review at an open record hearing. *IMC 18.04.470.B.*

Criteria for Review

The Hearing Examiner shall review the final plat and all documents including any public comments and approve the final plat if the final plat:

1. Except for minor modifications under IMC 18.13.160, Modification of an approved final plat, is consistent with the approved preliminary plat; and
2. Is consistent with the provisions of this title and Chapter 58.17 RCW.

IMC 18.13.200.B.

These criteria include the criteria for review of plats set forth in RCW 58.17.110, the state subdivision statute. The City Council and Urban Village Development Commission addressed consistency of the application with RCW 58.17.110 criteria during preliminary plat review. *See Exhibits 6 and 7.* As a result of preliminary plat review, the Council approved the preliminary plat with 32 conditions. *See Exhibits 6 and 7.* Because the application has already undergone review for consistency with the applicable subdivision criteria, and conditions of approval were applied to ensure consistency, final plat review is limited to determining whether conditions of preliminary plat approval and Chapter 18.13 IMC technical requirements are satisfied.

Conclusions Based on Findings

1. **With conditions, the proposed final plat would comply with Chapter 18.13 IMC technical requirements.** The City gave reasonable notice of the final plat application and associated public meeting. The City, through the preliminary plat process, previously reviewed the environmental impacts of developing the property, as required by SEPA. The Applicant has generally complied with Chapter 18.13 IMC technical requirements, including dedications and certifications, improvements, and financial guarantees on deferred improvements. Although concerns have been raised about slope stability, especially on the adjacent Parcel 9, comments at the public meeting from both the City's and Applicant's professional engineers reveal that the site has been continuously monitored for approximately one year, that all geotechnical and critical areas reports were peer reviewed, and that the proposal may move forward without threat to the public health, safety, or welfare. Conditions are necessary to allow minor, non-substantive adjustments to be made at the discretion of the Director of the Development Services or other Responsible Official and to reflect the agreement reached between the TRA and the Applicant. *Findings 1 – 23.*
2. **The final plat would comply with the applicable conditions of preliminary plat approval.** The residential development proposed for the property is consistent with the Comprehensive Plan's Urban Village designation. The proposed development is consistent with the purpose and requirements of the Urban Village/East Village zone. The application for final plat approval was adequately reviewed for compliance with the conditions of the preliminary plat approval. Completion of required improvements is

guaranteed through posting of a performance bond by the Applicant. Appropriate provision has been made for the public health, safety, general welfare, and all other items specified in IMC 18.13.310 and the Development Agreement. *Findings 1 – 23.*

DECISION

Based on the preceding findings and conclusions, the final plat for TALUS Parcels 7 & 8 is **APPROVED**, with the following conditions:

1. Minor, non-substantive adjustments may be made to the final plat at the discretion of the Director of the Development Services Department or other Responsible Official, prior to recording.
2. Final plat drawings shall be modified per the terms stated in the materials addressing the agreement between the TRA and the Applicant (Exhibits 12 and 13) and the Revised Final Plat Drawings (Exhibit 14).
3. Prior to transferring responsibility of any tracts to the Talus Residential Association, the Applicant shall review such tracts for hazardous trees, make any necessary repairs to trails and other appurtenances, and clean and repair applicable stormwater facilities where appropriate. All tracts assigned responsibility to the Talus Residential Association shall be turned over in good order, as verified by the City if necessary.

Decided this 4th day of January 2017.



Andrew M. Reeves
Hearing Examiner
Sound Law Center